

FISCAL NOTE

Bill #: SB0134

Title: Revise district court assumption costs and responsibilities

Primary Sponsor: McNutt, W

Status: As Introduced

Sponsor signature	Date	Chuck Swysgood, Budget Director	Date
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Fiscal Summary

	FY 2004 Difference	FY 2005 Difference
Expenditures:		
General Fund	(\$8,037,766)	(\$9,193,486)
Net Impact on General Fund Balance:	\$0	\$0

- | | |
|--|---|
| <input checked="" type="checkbox"/> Significant Local Gov. Impact | <input type="checkbox"/> Technical Concerns |
| <input checked="" type="checkbox"/> Included in the Executive Budget | <input checked="" type="checkbox"/> Significant Long-Term Impacts |
| <input type="checkbox"/> Dedicated Revenue Form Attached | <input type="checkbox"/> Needs to be included in HB 2 |

Fiscal Analysis

ASSUMPTIONS:

1. This bill is included in the Executive Budget to the extent that the general fund balance sheet will not be adjusted except to the extent that expenditures increase above the amounts shown above. The costs outlined in the fiscal summary are the projected costs for variable items that will not be state assumed costs under the District Court program. Therefore, the expenditures have not been included in HB 2 as recommended to the Legislature.
2. This bill does not change the funding for District Court employees and operating costs.
3. The cost of certain witness fees, juror fees, psychiatric examinations, related expenses and accrued liabilities will not be transferred from the counties to the state on July 1, 2003, under this bill as detailed section-by-section below.
4. Section 1: Language listing county employees and county elected officials is removed because SB 176 did not require the state to assume these positions and they are not subject to the Judicial Branch personnel plan.
5. Section 2: The cost of witness fees and necessary expenses in criminal cases are to be paid by the county.
6. Section 3: Projected transcript costs are included in both court reporter services and indigent defense. The cost of transcripts requested by the county attorney or the attorney general is not accounted for separately from the cost of transcripts requested by a judge. Year-to-date (assume three months) expenses for transcripts are approximately \$32,000. Projected costs for a year are \$128,000. Assume that 95 percent of the time the defense attorney requests the transcript (per a brief survey of court reporters) and 5 percent of the time the county attorney requests the transcript. So 95 percent of the cost or \$121,600 remains as a District Court cost while 5 percent or \$6,400 will be paid by the county. This \$6,400 is included in the

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projected \$5,065,444 for FY 2004 and \$5,823,371 for FY 2005 of indigent defense costs for which counties are contingently responsible.

7. Section 4:
 - a. The cost of psychiatric examinations and witness fees are not included in the state-funded District Court program in criminal, habeas corpus and termination of parental rights cases.
 - b. Costs for an educational program concerning effects on children of dissolution of marriage will be paid by the county.
 - c. In proceedings held pursuant to Title 41, Chapter 3, part 4 or 6, transcript fees, witness fees and expenses for medical and psychological evaluations of youth, or the youth's parent, guardian or other person having physical or legal custody of the youth are determined not to be part of the District Court program costs.
 - d. Federal habeas corpus cases are not a state responsibility.
 - e. On page 5, lines 21 and 22, the termination language of subsections (3)(b) and (4)(b) is struck so that when costs exceed the appropriation for involuntary commitment proceedings, youth court proceedings, expenses for indigent defense in criminal cases, youth-in-need-of-care cases and appointed counsel for the youth or legal custody of the youth, the counties will be responsible for the balance and have an incentive to assist the state in controlling costs. The appropriation will be set at the FY 2001 expenditure level plus a 3 percent growth factor each year since the 57th Legislature adopted the plan.
8. Section 5: The county may levy and collect a tax to cover any costs related to the District Court that are not assumed by the state or reimbursable under 3-5-901, MCA.
9. Sections 6 and 7: Education evaluation and education programs were never District Court costs. These sections clarify that the responsibility belongs to either the counties or the Department of Public Health and Human Services.
10. Sections 8, 11, and 13: These sections direct that specific indigent defense costs are to be reimbursed in accordance with the funding mechanism outlined in 3-5-901, MCA, which Section 4 amends to allow for the counties to be responsible for costs exceeding the appropriation based on the 3 percent growth factor.
11. Section 9: This section specifies that public defender costs will continue to be county costs. Public defender offices and associated costs were not state-assumed.
12. Section 10: Juror and witness fees and witness expenses before a grand jury and the cost of court sanctioned educational programs are removed from the state District Court program.
13. Section 12: The cost of a fitness to proceed examination requested by the prosecution is not a state District Court expense.
14. Section 14: Counties will be responsible for the liability of accumulated sick and annual leave accrued as of June 30, 2002, at the rate of pay as of June 30, 2002, and the state will be responsible for all accumulated leave accrued after state assumption. SABHRS shows for those District Court employees transferred from the counties to the state that sick leave liability is about \$428,000 and vacation is \$746,000. Moving responsibility for the leave from the jurisdictions where it was created to the state was a SB 176 modification of the substantive law leave statute. This bill will make the state assumption of county employees in the District Courts consistent with current law. Since these amounts are a liability, not an expense, they are not included in the fiscal analysis totals.
15. Section 15: This section directs that SB 134 expressly supersede the unfunded local government statutes.
16. Section 16: Language terminating the sunset of the clause "If money appropriated for the expenses listed in subsection (4)(a) (criminal indigent defense and Title 41 proceedings) is insufficient to fully fund those expenses, the county is responsible for payment of the balance" is removed, leaving the liability with the county.
17. The District Court program does not yet track expenditures to the level of detail delineated in the bill. Also, the District Court only has approximately five months of expenditures under state assumption. These costs, when annualized, do not give an accurate portrayal of yearly District Court costs due to the

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backlog of reimbursements and due to the adopted procedures to reimburse at a portion of the total costs. Therefore, at this time, the only means of estimating the fiscal impact of this bill is to use projected costs from the Judiciary budget submittal. See the attached table for a summary of the continued state costs and for the costs that are proposed to remain with the counties.

FISCAL IMPACT:

	FY 2004 <u>Difference</u>	FY 2005 <u>Difference</u>
<u>Expenditures:</u>		
Operating Expenses	(\$8,037,766)	(\$9,193,486)
<u>Funding of Expenditures:</u>		
General Fund (01)	(\$8,037,766)	(\$9,193,486)

Net Impact to Fund Balance (Revenue minus Funding of Expenditures):

General Fund (01) Note: These expenses are not funded in the Executive Budget; therefore, there is no impact to general fund balance in the Executive Budget.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Pursuant to 1-2-112(2), SB 134 expressly supersedes 1-2-112, 1-2-114, 1-2-115 and 1-2-116 (unfunded local government mandate statutes). SB 134 specifically provides that the county may levy and collect a tax to cover any costs related to the District Court that are not assumed by the state or reimbursable under 3-5-901, MCA.

LONG-RANGE IMPACTS:

Funding for the state District Courts will be provided through legislative appropriations from the state general fund and, to the extent that costs exceed the appropriations or are determined to be non-assumed items, funding will be provided through taxes levied by the counties.